



Billing Code: 3410-30-P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271 and 274

RIN 0584-AE02

Supplemental Nutrition Assistance Program: 2008 Farm Bill Provisions on Clarification of Split Issuance; Accrual of Benefits and Definition Changes

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food and Nutrition Service (FNS) is proposing changes to the Supplemental Nutrition Assistance Program (SNAP) issuance regulations in accordance with the Food, Conservation and Energy Act of 2008, Public Law 110-234 (“the 2008 Farm Bill”). The proposal would implement several provisions of the 2008 Farm Bill to: clarify that monthly SNAP benefits must be issued in one lump sum; require SNAP accounts to be inactive for a minimum of 6 months before taking benefits off-line; require benefits taken off-line to be restored within 48 hours of the recipient’s request; and require permanent expungement of unused benefits after 12 months of account inactivity. This proposal also addresses the requirement to notify households when benefits are taken off-line. Finally, FNS is updating SNAP definitions in 7 CFR part 271, to reflect the Program’s new name and the issuance of benefits through Electronic Benefit Transfer (EBT) systems.

DATES: Written comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] to be assured of consideration.

ADDRESSES: The Food and Nutrition Service, USDA, invites interested persons to submit comments on this proposed rule. Comments may be submitted by one of the following methods:

- Federal e-Rulemaking Portal: Go to <http://www.regulations.gov>.

Preferred method; follow the on-line instructions for submitting comments.

- Mail: Comments should be addressed to Vicky T. Robinson, Chief, Retailer Management and Issuance Branch, Retailer Policy and Management Division, Rm. 418, 3101 Park Center Drive, Alexandria, Virginia 22302.

This proposed rule would codify and clarify certain technical, operational aspects to States related to benefit issuance. It also requests comment about proposed interpretation of taking benefits off line and expunging benefits. All comments submitted in response to this proposed rule will be included in the record and will be made available to the public. Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure. FNS will make the comments publicly available on the Internet via <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Vicky Robinson, Chief, Retailer Management and Issuance Branch, Retailer Policy and Management , Rm. 418, 3101 Park Center Drive, Alexandria, Virginia 22302, or by phone at 703-305-2476.

SUPPLEMENTARY INFORMATION:

Background

Sections 4113 (Clarification of Split Issuance) and 4114 (Accrual of Benefits) of the 2008 Farm Bill amended section 7 of the Food and Nutrition Act of 2008 (7 U.S.C. 2016) (“the Food and Nutrition Act”), which pertains to SNAP benefit issuance. In addition, section 4001 updated the language in the Food and Nutrition Act to reflect the Program’s name change from the Food Stamp Program to the Supplemental Nutrition Assistance Program (SNAP), and section 4115 de-obligated coupons as of June 18, 2009, and made EBT cards the sole method of benefit delivery.

This rulemaking proposes to implement the 2008 Farm Bill amendments to the Food and Nutrition Act, and to update the general information and definitions of 7 CFR part 271 to reflect the Program’s new name and issuance of benefits through EBT systems. The elimination of all other benefit delivery options was addressed in the “Regulation Restructuring: Issuance Regulation Update and Reorganization to Reflect the End of Coupon Issuance Systems” rule published in final at 75 FR 18377 on April 12, 2010, which became effective on June 11, 2010. The 2008 Farm Bill provisions addressed in this Proposed Rule were implemented through FNS implementing memo on October 1, 2008.

7 CFR Part 271 – General Information and Definitions.

FNS is proposing to add new definitions associated with the current EBT issuance system and to update the terminology in 7 CFR part 271, to reflect the program’s new name and the elimination of coupons. Furthermore, FNS proposes to change the

definition of “Drug addiction or alcoholic treatment and rehabilitation program” to be consistent with current policy, which does not require programs to be eligible to receive funding under Part B of title XIX of the Public Health Service Act (42 U.S.C. 300x et seq.) in order to redeem SNAP benefits. Programs that receive funding under part B of title XIX, programs that are eligible to receive funding but do not actually receive funding under part B of title XIX, and programs that are not eligible to receive funding but operate to further the purposes of part B of title XIX to provide treatment to drug addicts and or alcoholics, are all eligible. None of the changes to part 271 would have any policy implications.

7 CFR Part 274 – Issuance and use of Program Benefits.

The general provisions proposed in part 274 are statutorily required by the Food and Nutrition Act. These provisions were administratively implemented on October 1, 2008, via an FNS implementation memo, but would be codified with this proposed rule. The discussion below and the subsequent regulatory language for this part provide additional details to address operational processes and/or clarify current policy. Where FNS is also proposing changes to current processes, it is so noted.

Split Issuance

Prior to the 2008 Farm Bill, some State agencies had received strong interest from stakeholders to divide each individual household’s monthly allotment into two or more issuances over the month. Up to that point, no State had ever split households’ benefit allotments. While not explicitly prohibiting splitting the issuance of monthly allotments, the current SNAP regulations are based on a one-time issuance per month for ongoing

benefits with 7 CFR 274.2(d) stating that “all households shall be placed on an issuance schedule so that they receive their benefits on or about the same date each month.”

The purpose of splitting benefit allotments, according to retail industry proponents, would be to help authorized SNAP stores better manage their food stock, employee hours and traffic flow. Proponents have also suggested that it would ensure that SNAP participants spread their benefit spending over the course of the month instead of depleting the entire allotment early on and not having sufficient funds to meet their nutritional needs as the end of the month approaches. However, section 4113 of the 2008 Farm Bill now requires that State agencies issue a household’s ongoing monthly benefit allotment in one lump sum. Proponents of the one issuance per month limitation have argued that requiring the entire monthly benefit allotment to be issued at one time allows households to make large buying trips and to purchase large, economy-size containers of staple foods. It also allows households with small benefit amounts—such as seniors or those with limited transportation options -- to make one shopping trip during the month.

To address retailer concerns regarding monthly spikes in traffic flow, State agencies have the option to stagger the issuance of benefits to individual households over multiple days of the month in accordance with 7 CFR 274.2(d)(1). Staggered issuance, in this context, means issuing benefits to a group of SNAP recipients on one date of a month, and issuing benefits to another group of recipients on a different date of the month, and so on, so that all SNAP recipients in the State are not receiving their monthly allotment and shopping on the same day. Staggered issuance allows authorized SNAP stores to manage better their food stock, employee hours and traffic flow, while still allowing

recipients to make bulk purchases and/or limit their shopping trips to once per month. When a State agency changes its issuance schedule to institute or expand a staggered issuance schedule, State agencies would continue to have the option to divide the issuances into two parts during the transition month to meet the requirement that no more than 40 days elapses between the issuance of any two allotments provided to a household participating longer than two consecutive, complete months. In general, the prohibition against splitting ongoing monthly issuances is not intended to change policy or practice with respect to the issuance of benefits in any other area, including expedited benefits, the proration of benefits for partial months, the issuance of supplemental benefits in the event a benefit correction is necessary, or the option to issue benefits semimonthly to residents of drug or alcohol addiction treatment facilities.

This provision would be codified at 7 CFR 274.2(c).

Benefit Expungement

Under the previous food stamp coupon issuance system, paper coupons did not have an expiration date. Households could accumulate an unlimited amount of benefits in the form of paper coupons and spend them at any time in the future, until the 2008 Farm Bill de-obligated all food stamp coupons as of June 2009. Currently under EBT, consistent with section 4115 of the 2008 Farm Bill, benefits are expunged (permanently removed) from inactive accounts if the account has been inactive for one year. Current policy considers an account active if the household initiates an action that affects the balance of the account, such as a purchase or refund, at least once every 12 months. As long as the account is active, States are not allowed to expunge any benefits even if there are benefits in the account that were issued more than 12 months ago. Only when the account has

been inactive for 12 months, may State agencies begin to permanently remove benefits from a household's account at the benefit allotment level. This policy and approach to expungement was in place through regulations prior to the 2008 Farm Bill.

The 2008 Farm Bill requires State agencies to establish a procedure for recovering electronic benefits from a household's account due to inactivity and to expunge benefits that have not been accessed by a household after a period of 12 months. Because expungement has been a regulatory requirement since the beginning of EBT implementation, all State agencies already have a process in place for expunging benefits from a household's EBT account due to inactivity. Furthermore, the 2008 Farm Bill implementation memo issued on July 3, 2008, maintained the current expungement process outlined in the previous paragraph. However, after further review of the statutory language, FNS has determined that there is sufficient ambiguity in the language to allow for two different interpretations.

Section 7(h)(12)(C) of the Food and Nutrition Act reads, "A State agency shall expunge benefits that have not been accessed by a household after a period of 12 months." This language could be interpreted to support SNAP's current expungement policy (interpretation #1) of only expunging benefits from EBT *accounts* that have not been accessed in 12 months (i.e., inactive accounts). This interpretation focuses on the account referenced in section 7(h)(12)(A) of the statute, which requires State agencies to establish a procedure for recovering electronic benefits from *the account of a household due to inactivity*. Another interpretation (interpretation #2) could be that *benefits* that have not been used after 12 months must be expunged regardless of whether the household has accessed the account (i.e., regardless of account activity).

Since the 2008 Farm Bill passed, FNS has received feedback from some States in support of the second interpretation. This support emphasizes that SNAP households should be prevented from accumulating excessively high balances in their SNAP EBT accounts. High balances, some States have indicated, do not align with the true intent of the program, and hold taxpayer money inactive that could otherwise be spent in a beneficial way. As a result, FNS is requesting comments through this proposed rulemaking to obtain further feedback from State agencies as well as other stakeholders, such as advocates and EBT processors, regarding the possibility of changing the current expungement process to reflect a process in line with interpretation #2.

Under interpretation #2, FNS is particularly interested in receiving comments on how to address a scenario in which a household receives restored benefits for multiple months in one lump sum as a result of a fair hearing finding. This is one possible reason a household might have a large SNAP balance. FNS understands that, in these types of situations, a household would have a shorter period of time overall to spend the restored benefits they were entitled to receive for previous months than would have been the case if the benefits were provided monthly as originally required. The restored benefits would be in addition to any ongoing benefits the household is receiving, which must also be spent within 12 months. However, FNS is also sensitive to the automated system processes that would be impacted if it instituted exceptions to a requirement that State agencies expunge unused benefits 12 months after they were issued.

In addition to comments on each of the two expungement policy interpretations, FNS is also interested in receiving comments on whether every State agency should be given the option to choose one of the two expungement processes discussed here. Therefore,

both expungement processes (i.e. expunging unused benefits after one year of account inactivity or expunging unused benefits one year after each allotment is issued) would be allowed, giving each State agency the flexibility to choose which process to implement.

Respondents who support the second alternative (i.e. expunging unused benefits one year after each allotment is issued), either as mandatory or as an option, should also provide comments regarding household notification of the new expungement policy and suggested effective dates. For example, would an effective date of one year after the final rule's publication date be a suitable timeframe for providing notice to clients that unused benefits over 12 months old will be permanently expunged or should the timeframe be longer or shorter and why?

To summarize: under interpretation #1, SNAP benefits would only be expunged if the account has been inactive for 12 months. As long as the account is active, no benefits would be expunged regardless of when the benefits were issued, and benefits could continue to accumulate as long as the household remains eligible for benefits. Under interpretation #2, households would have 12 months from the date of issuance to spend each benefit allotment they receive even if the household is accessing the account and using benefits.

In this proposed rule, the proposed regulatory language is in line with the 2008 Farm Bill Implementation Memo, which mirrored current policy of expunging benefits only from inactive EBT accounts. Final language will take into consideration the comments received regarding both possible expungement interpretations discussed above.

This rulemaking also proposes to codify the current policy of requiring State agencies to expunge benefits at the benefit allotment level. In other words, the entire

balance of a SNAP EBT account could not be permanently removed due to inactivity if there are benefit allotments that have not been available to the household for at least 12 months. Instead, the State would need to wait 12 months from the date when each benefit allotment was issued to the household or from the last date of account activity, whichever date is later, before expunging those particular funds.

Furthermore, to ensure that benefits are not available to the household longer than allowed by statute, FNS is proposing to require State agencies to expunge benefits from the EBT system or, if offline, from the State records on a daily basis.

This proposed rule also clarifies that the expungement timeframe requirement would not apply to cases that have been closed due to the death of all household members. In most cases, this provision would apply to one-person households. Once the State agency has confirmed a death match and closed the case in accordance with 7 CFR 272.14, there is no one left in the household who is entitled to the benefits. In such cases, State agencies would be required to permanently expunge all SNAP benefits in the household's account regardless of when the benefits were issued or last used. This provision would prevent unauthorized persons from accessing and using benefits that remain in a deceased household's account. For all other SNAP cases, benefits would continue to remain in the SNAP account even after the SNAP case is closed (unless taken off-line due to inactivity as discussed below) until the benefits have aged off in accordance with expungement requirements.

This provision would be codified at 7 CFR 274.2(h)(2).

Moving benefits off-line

Prior to the 2008 Farm Bill, EBT regulations allowed State agencies to move all benefits in an inactive SNAP account off-line if the account had not been accessed over a three-month period. Once benefits are taken off-line, they are no longer immediately accessible to the household, but must be reinstated if the household reapplies for the program or requests that the remaining benefits be moved back on-line prior to expungement. However, some households, especially seniors who qualify for a small amount of benefits, have been known to save up those smaller amounts and use several months' worth in one shopping trip. For these households, three months may have been too short a period before moving benefits off-line. As a result, section 4114 of the 2008 Farm Bill stipulated 6 months as the time period that an EBT account must be inactive before a State agency may move benefits off-line. State agencies are not required to take inactive benefits off-line at all prior to expungement, but if a State agency wishes to exercise the option to do so, it must wait until an EBT account has been inactive for at least 6 months. In accordance with the July 3, 2008, implementing memo, this provision was implemented on October 1, 2008.

Because "off-line" was not previously defined in regulations, FNS is taking this opportunity to propose such a definition. The off-line definition would not impact a client's ability to get benefits reinstated, or the timeframes. The definition serves only to provide State agencies and EBT processors the parameters for operationalizing the off-line provision. FNS welcomes comments regarding the impact this definition would have on State agencies' EBT issuance systems.

Going forward, taking benefits "off-line" would mean that the benefits are being removed from the EBT account and the EBT system. Moreover, this regulation proposes

that, when taking benefits off-line, from a financial management perspective, the EBT contractor treat these benefits like expungements by removing benefits from the Account Management Agent (AMA). The AMA is an accounting system that interfaces with the US Department of Treasury to keep track of benefit authorizations, returned benefits such as expungements, and benefit redemptions. However, unlike a permanent expungement, information about the benefits (amount, availability date, last used date, etc.) would be stored elsewhere so that the benefits can be reissued upon timely contact by the household.

The law does not allow State agencies to make SNAP benefits in an inactive EBT account inaccessible to a client prior to expungement, unless they exercise the option to store benefits off-line within the permitted timeframes. Therefore, under the proposed definition of “off-line”, State agencies would no longer be able to flag an account as “dormant” or otherwise deactivate the account to make benefits inaccessible to the client, and yet keep the benefits on-line. FNS is proposing this limitation because such a practice would defeat the logic of the original regulation that permitted benefits to be moved off-line. When the original regulation to allow State agencies to take benefits off-line was implemented, the increased computer system capacity needed to maintain all EBT accounts on-line was more expensive than it is now. By taking inactive EBT accounts off-line, the goal was to reduce the overall cost of EBT services. The incremental cost of additional system capacity, however, is now considerably less expensive. Therefore, the financial motives for moving benefits off-line are no longer a significant factor. Nevertheless, some State agencies are choosing to make benefits inaccessible after a period of inactivity in order to establish contact with the household

and verify continued eligibility. FNS believes this is contrary to the intent of the law. Therefore, as noted above, this rule would no longer permit the practice of simply making benefits inaccessible without actually moving them off-line. Furthermore, by taking the benefits out of the EBT system, this provision would provide additional system security by preventing unauthorized persons from accessing and using accumulated benefits that remain dormant in a household's account. State agencies would still be able to flag a household's EBT account at various stages of inactivity for monitoring purposes, but the benefits would need to remain accessible to the household unless moved off-line or permanently expunged.

Section 4114 of the 2008 Farm Bill also requires State agencies to send a notice to the household when the household's benefits are taken off-line and to make the benefits available again within 48 hours of the household's request. The Congressional intent, as stipulated in the Congressional record, was that notification be closely tied to the date benefits would move off-line. Therefore, this rule proposes in 273.2(h)(1) to allow States to choose when to provide notification as long as it is within 10 days prior to or concurrent with moving benefits off-line. Although not required, some State agencies may want to give clients sufficient notice to access the account to prevent benefits from being taken off-line altogether. Because individual off-line notification is now a statutory requirement, State agencies may no longer receive a waiver to provide general off-line notification as part of initial training or recertification. Inactive accounts with a zero balance that are taken off-line do not require a notice because no actual benefits are made inaccessible to the household.

As already required at 7 CFR 274.2(h)(1), the notice must describe the steps necessary to bring the recovered benefits back on-line. State agencies should make the process for reinstating off-line benefits simple for households. A general request for assistance from a household that has had benefits moved off-line should be considered a request for reinstatement of benefits. In other words, households should not have to follow a complicated reinstatement option in order to get benefits restored to their accounts. Rather, eligibility workers and local office or call center employees should assist households in initiating the process for reinstating benefits. Once the benefits are reinstated, the benefit aging process must start over so that the household has another six months to access the account before the reinstated benefits are taken off-line again, and another 12 months to access the account before those benefits are expunged due to inactivity.

This provision would be codified at 7 CFR 274.2(h)(1).

Procedural Matters

Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563, direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules and of promoting flexibility. This proposed rule has been determined to be not significant and was not reviewed by the Office of Management and Budget (OMB) in conformance with Executive Order 12866.

Regulatory Impact Analysis

This proposed rule has been designated as not significant by the Office of Management and Budget, therefore, no Regulatory Impact Analysis is required.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires Agencies to analyze the impact of rulemaking on small entities and consider alternatives that would minimize any significant impacts on a substantial number of small entities. Pursuant to that review, this rule is certified not to have a significant impact on a substantial number of small entities.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and Tribal governments and the private sector. Under section 202 of the UMRA, the Department generally must prepare a written statement, including a cost/benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures to State, local, or Tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This proposed rule does not contain Federal mandates (under the regulatory provisions of Title II of the UMRA) that impose costs on State, local, or tribal governments or to the private sector of \$100 million or more in any one year. This proposed rule is, therefore, not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12372

SNAP is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in 2 CFR chapter IV, this Program is excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with state and local officials.

Executive Order 13132

Executive Order 13132, requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under section (6)(b)(2)(B) of Executive Order 13132. FNS has considered the impact of this proposed rule on State and local governments and has determined that this rulemaking does not have federalism implications. This proposed rule does not impose substantial or direct compliance costs on State and local governments. Therefore, under section 6(b) of the Executive Order, a federalism summary impact statement is not required.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This proposed rule is not intended to have retroactive effect unless specified in the DATES section of the final rule. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted.

Executive Order 13175

Executive Order 13175, requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. In late 2010 and early 2011, USDA engaged in a series of consultative sessions to obtain input by tribal officials or their designees concerning the impact of this rulemaking on the tribe or Indian tribal governments, or whether this rulemaking may preempt tribal law. USDA did not receive any comments specific to this proposed rule during the sessions. Reports from the consultative sessions were made part of the USDA annual reporting on Tribal Consultation and Collaboration. USDA offers consultation opportunities, such as webinars and teleconferences, for collaborative conversations with tribal leaders and their

representatives concerning ways to improve rules with regard to their effect on Indian country on a quarterly basis as part of its yearly tribal consultation schedule.

We are unaware of any current tribal laws that could be in conflict with the proposed rule. We request that commenters address any concerns in this regard in their responses.

Civil Rights Impact Analysis

FNS has reviewed this rule in accordance with Departmental Regulations 4300-4, “Civil Rights Impact Analysis,” and 1512-1, “Regulatory Decision Making Requirements.” After a careful review of the rule's intent and provisions, FNS has determined that this proposed rule will not in any way limit or reduce the ability of protected classes of individuals to receive SNAP benefits on the basis of their race, color, national origin, sex, age, disability, religion or political belief nor will it have a differential impact on minority owned or operated business establishments, and woman owned or operated business establishments that participate in SNAP.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. chap. 35; see 5 CFR 1320) requires the Office of Management and Budget (OMB) approve all collections of information by a Federal agency before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. This proposed rule does not contain information collection requirements subject to approval by OMB under the Paperwork Reduction Act of 1995.

E-Government Act Compliance

The Food and Nutrition Service is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

List of Subjects in 7 Parts 271 and 274

Food stamps, Grant programs-social programs, Reporting and recordkeeping requirements.

For reason set forth in the preamble, 7 CFR parts 271 and 274 are proposed to be amended as follows:

SUBCHAPTER C—[AMENDED]

1. In the heading of subchapter C of chapter II, remove the words “Food Stamp” and add in their place the words “Supplemental Nutrition Assistance”.
2. The authority citation for 7 CFR parts 271 and 274 continues to read as follows:

AUTHORITY: 7 U.S.C. 2011-2036.

PART 271 – GENERAL INFORMATION AND DEFINITIONS

§ 271.1 General purpose and scope.

3. In § 271.1:
 - a. Revise paragraph (a);

- b. Remove the word “coupons” from the fourth sentence of paragraph (b) and add in its place “SNAP benefits”; and
- c. Remove the word “coupon” from the tenth sentence of paragraph (b) and add in its place “benefit”.

The revision reads as follows:

§ 271.1 General purpose and scope.

(a) *Purpose of SNAP.* In accordance with section 2 of the Food and Nutrition Act of 2008, SNAP is designed to promote the general welfare and to safeguard the health and well being of the Nation's population by raising the levels of nutrition among low-income households.

* * * * *

4. In § 271.2:

- a. Amend the definition of Allotment by removing the word “coupons” and adding in its place the word “benefits”;
- b. Remove the definition of Authorization to participate card (ATP); .
- c. Add definitions for Benefit and Benefit issuer in alphabetical order;
- d. Remove the definition of Bulk storage point;
- e. Add a definition for Contractor (or Contracted vendor) in alphabetical order;
- f. Remove the definitions of Coupon issuer and Direct access system;
- g. Revise the definition of Drug addiction or alcoholic treatment and rehabilitation program;

- h. Add definitions for Electronic Benefit Transfer (EBT) account, Electronic Benefit Transfer (EBT) card, and Electronic Benefit Transfer (EBT) system in alphabetical order;
- i. Amend the definition of Eligible foods by removing the word “coupons” where it appears twice in paragraph (3) of the definition, and adding in its place the words “SNAP benefits”;
- j. Amend the definition of Employment and training (E&T) component by removing “6(d)(4)(B)(iv)” and adding in its place “6(d)(4)(B)” and by removing “(7 U.S.C. 2014(2)(4)(B))” and adding in its place “(7 U.S.C. 2015(d)(4)(B))”;
- k. Amend the definition of Employment and training (E&T) mandatory participant by removing “7 U.S.C. 2014(d)(1)” and adding in its place “7 U.S.C. 2015(d)(1)”;
- l. Amend the definition of Firm’s practice by removing the words “food coupons” and adding in their place the words “SNAP benefits”;
- m. Add a definition for Food and Nutrition Act of 2008 (Food and Nutrition Act) in alphabetical order;
- n. Revise the definition of Food Stamp Act;
- o. Amend the definition of Identification (ID) card by removing the words “food coupons” and adding in its place the words “SNAP benefits”;
- p. Add definitions for Interoperability, Manual transaction, and Manual voucher in alphabetical order;
- q. Amend the definition of Overissuance by removing the word “coupons” and adding in its place the word “benefits”;
- r. Add definitions for Personal identification number (PIN), Point-of-sale (POS) terminal, and Primary account number (PAN) in alphabetical order;

- s. Remove the definition of Program;
- t. Add definitions for Retailer EBT Data Exchange (REDE) system and Supplemental Nutrition Assistance Program (SNAP or Program) in alphabetical order.

The additions and revisions read as follows:

§ 271.2 Definitions.

* * * * *

Benefit means the value of supplemental nutrition assistance provided to a household by means of an EBT system or other means of providing assistance, as determined by the Secretary.

Benefit issuer means any office of the State agency or any person, partnership, corporation, organization, political subdivision or other entity with which a State agency has contracted for, or to which it has delegated functional responsibility, in connection with the issuance of benefits to households.

* * * * *

Contractor (or contracted vendor) means an entity that is selected to perform EBT-related services for the State agency.

* * * * *

Drug addiction or alcoholic treatment and rehabilitation program means any drug addiction or alcoholic treatment and rehabilitation program conducted by a private, nonprofit organization or institution, or a publicly operated community mental health center and certified by the requisite State title XIX Agency as:

- (1) Receiving funding under part B of title XIX of the Public Health Service Act (42 U.S.C. 300x et seq.);

(2) Eligible to receive funding under part B of title XIX even if it does not actually receive funding; or

(3) Operating to further the purposes of part B of title XIX, to provide treatment to drug addicts and or alcoholics.

Electronic Benefit Transfer (EBT) account means a set of records containing demographic, card, benefit, transaction and balance data for an individual household within the EBT system that is maintained and managed by a State or its contractor as part of the client case record.

Electronic Benefit Transfer (EBT) card means an on-line magnetic stripe card or off-line smart card issued to a household member or authorized representative through the EBT system by a benefit issuer.

* * * * *

Electronic Benefit Transfer (EBT) system means an electronic payments system under which household benefits are issued from and stored in a central databank, maintained and managed by a State or its contractor, that uses electronic funds transfer and point-of-sale technology for the delivery and control of food and other public assistance benefits.

* * * * *

Food and Nutrition Act of 2008 (Food and Nutrition Act) means title 7 of the United States Code, sections 2011 through 2036 (7 USC 2011-2036), including any subsequent amendments thereto.

Food Stamp Act means the Food Stamp Act of 1977 (Pub. L. 95-113) as amended through Public Law 108-269, July 2, 2004.

* * * * *

Interoperability means a system that enables program benefits issued via an EBT card to be redeemed outside the State that issued the benefits.

* * * * *

Manual transaction means an EBT transaction that is processed with the use of a paper manual voucher when there is an EBT system outage.

Manual voucher means a paper document signed by the EBT cardholder that allows a retailer to redeem benefits through a manual transaction.

Personal Identification Number (PIN) means a numeric code selected by or assigned to a household and used to verify the identity of an EBT cardholder when performing an EBT transaction.

* * * * *

Point-of-Sale (POS) terminal means a range of devices deployed at authorized retail food stores for redeeming benefits through the use of an EBT card and PIN to initiate electronic debits and credits of household EBT and retailer bank accounts.

Primary Account Number (PAN) means a number embossed or printed on the EBT card and encoded onto the card to identify the State and EBT account holder.

* * * * *

Retailer EBT Data Exchange (REDE) system means the FNS system that allows the automated exchange of authorized retailer demographic data between FNS and the State and/or EBT contractor for notification of changes in retailer Program participation.

* * * * *

Supplemental Nutrition Assistance Program (SNAP or Program) means the program operated pursuant to the Food and Nutrition Act of 2008.

* * * * *

§ 271.4 [Amended]

5. In § 271.4(a)(2) remove the word “coupons” and add in its place “SNAP benefits and EBT cards”.

§ 271.5 [Amended]

6. In § 271.5:

- a. Remove “coupon” and “coupons” wherever they appear and add in their place “benefit” and “benefits”, respectively, including the section heading;
- b. Amend paragraph (a) by adding “and EBT cards” at the end of the last sentence;
- c. Amend the introductory text of paragraph (b) by removing the word “ATP” and adding in its place the word “EBT”;
- d. Remove paragraphs (b)(1) through (3); and
- e. Amend paragraph (c) by removing the word “ATP’s” wherever they appear and adding in its place the words “EBT cards”.

PART 274 – ISSUANCE AND USE OF BENEFITS

7. In § 274.2:

- a. Revise paragraph (c);
- b. Amend paragraph (e)(1) by removing the words “of paragraphs (e) through (h)”;
- c. Amend paragraph (g)(3) by removing the words “paragraph (h)(3)” and adding the words “paragraph (i)”;

- d. Revise paragraph (h);
- e. Add paragraph (i).

The revisions and additions read as follows:

§ 274.2 Providing benefits to participants.

* * * * *

(c) Benefit allotments. (1) State agencies shall not issue ongoing monthly benefit allotments to a household in more than one issuance during a month except with respect to the issuance of benefits to a resident of a drug and alcohol treatment and rehabilitation program in accordance with § 273.11(e) of this chapter.

(2) For those households which are to receive a combined allotment, the State agency shall provide the benefits for both months as an aggregate (combined) allotment, or as two separate allotments, made available at the same time in accordance with the timeframes specified in § 273.2 of this chapter.

* * * * *

(h) Inactive EBT accounts. An inactive EBT account means that the household has not initiated activity that affects the balance of the household's SNAP benefits in the account, such as a purchase or return, for a minimum of six months.

(1) Off-line storage. If a household's EBT account is inactive for six months or longer, State agencies may elect to store all benefits in that account off-line.

(i) Off-line benefits are benefits that have been removed from the EBT system for storage by the State agency and are no longer accessible to the household unless and until the benefits are reinstated upon contact by the household.

(ii) The State agency shall send written notification to the household up to 10 days prior to or concurrent with the action to store benefits off-line and describe the steps necessary to bring the benefits back on-line. If an inactive account has a zero balance, a notice to the household is not required.

(iii) Benefits stored off-line that have not reached the 12-month timeframe for expungement in accordance with paragraph (h)(2) of this section shall be reinstated and made available within 48 hours of reapplication or contact by the household.

(iv) Off-line benefits shall be removed from the Account Management Agent system, making them unavailable to the household. Upon reinstatement, the benefits shall be reissued and the account shall be reactivated or a new account established to resume the benefit aging process from the new issuance date.

(2) Expungement. On a daily basis, the State agency shall expunge benefits from accounts that have been inactive for a period of 12 months in accordance with the following:

(i) When the oldest benefit allotment has not been accessed by the household for 12 months, the State agency shall expunge benefits from the EBT account or off-line storage at the monthly benefit allotment level as each benefit allotment ages to 12 months since the date of issuance or since the last date of account activity, whichever date is later.

(ii) Expunged benefits shall be removed from the Account Management Agent unless already removed as provided in paragraph (h)(1) of this section, and shall not be reinstated.

(iii) The State agency shall not expunge any benefits from active accounts even if there are benefit allotments older than 12 months. If at any time after the expungement process

begins, the household initiates activity affecting the balance of the account, the State shall stop expunging benefits from the account and start the account aging process over again for the remaining benefits.

(iv) Notwithstanding the paragraph (h)(2)(iii) of this section, in instances when the State agency verifies a death match for all certified members of the household and closes the SNAP case in accordance with § 272.14 of this chapter, the State agency shall expunge the remaining SNAP balance in the household's EBT account at that time.

(i) Procedures to adjust SNAP accounts. Procedures shall be established to permit the appropriate managers to adjust SNAP benefits that have already been posted to an EBT account prior to the household accessing the account; or to remove benefits from inactive accounts for off-line storage or expungement in accordance with paragraph (h) of this section.

(1) Whenever benefits are stored off-line or expunged, the State agency shall document the date, amount of the benefits and storage location in the household case file.

(2) Issuance reports shall reflect the adjustment to the State agency issuance totals to comply with monthly issuance reporting requirements prescribed under § 274.4.

Dated: September 14, 2016.

Telora T. Dean
Acting Administrator
Food and Nutrition Service

[FR Doc. 2016-22860 Filed: 9/28/2016 8:45 am; Publication Date: 9/29/2016]